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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/549,372	09/14/2005	Bart Van Rompaey	FR030029	3469
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EXAMINER SASINOWSKI, ANDREW				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/549,372

**Applicant(s)**

VAN ROMPAEY ET AL.

**Examiner**

ANDREW J. SASINOWSKI

**Art Unit**

4163

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 – 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Moribe et. al. [US 5,661,703].

Regarding claim 1, Moribe teaches:

- a data carrier **[claim 12]** comprising a first area **[fig. 9, S1]**
- a second area comprising a rewritable material **[claim 12, also see col. 1, lines 8 - 15],**
- said first area being defined as a read-only area **[claim 13]** by means of type information recorded on said data carrier in an inerasable way **[claim 12].**

Regarding claim 2, Moribe teaches:

- The data carrier as claimed in claim 1 **[see above],**
- Wherein said first area and said second area are being parts of a same layer of said data carrier **[claim 1, claim 9, also see col. 1, lines 8 – 15].**

Regarding claim 3, Moribe teaches:

- The data carrier as claimed in claim 1 **[see above],**

- said data carrier comprising a central part **[fig. 9]**, the first area being nearer to said central part than the second area **[fig. 9, S1 and S2]**.

Regarding claim 4, Moribe teaches:

- The data carrier as claimed in claim 1 **[see above]**, said data carrier comprising a type area **[fig. 9, S1]** comprising said type information recorded by means of pits and lands **[col. 13, line 49]**.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moribe in view of Shigemori [US 6,125,089].

Regarding claim 5, Moribe teaches

- The data carrier as in claim 1 that contains type information **[see 102 rejection above]**.

However, Moribe does not teach

- wherein type information is recorded by means of a frequency modulated wobble.

Shigemori teaches

- a data carrier wherein information is recorded by means of a frequency modulated wobble **[col. 1, line 22]**.

It would have been obvious at the time of invention to one with ordinary skill in the art to combine the means of recording by frequency modulation wobble with the data carrier taught by Moribe because it is well known in the art that optical disks recorded using FM wobble can be later demodulated to obtain time codes for each sector on the optical disk **[Shigemori, col. 1, line 23]**

Regarding claim 6, Moribe in view of Shigemori teach the device as taught in claim 5 **[see above]**.

Moribe also teaches

- the data carrier **[col. 1, line 18]** with type information data encoded on the disc **[see claim 4 rejection]**.

However, Moribe does not teach

- wherein type information is encoded as Absolute Time in Pre-groove data in said lead-in area.

Shigemori teaches:

- a rewritable Compact Disc **[col. 1, line 17]** wherein the type information of the lead-in area of the optical disk encoded as Absolute Time in Pre-groove data **[col. 1, line 31]**.

It would have been obvious at the time of invention to one with ordinary skill in the art to combine the method of recording data in the lead-in area of the optical disk encoded as

Absolute Time In Pre-groove data taught by Shigemori with the Compact Disk with type information taught by Moribe because the Absolute Time in Pre-Groove area is used to encode many types of data including synchronization data **[Shigemori, col. 1, line 36]**.

5. Claim 7 rejected under 35 U.S.C. 103(a) as being unpatentable over Moribe in view of Shigemori, as applied to claim 5 above, and further in view of Endoh [US 7,280,461].

Moribe in view of Shigemori teaches:

- The data carrier as taught in claim 5 **[see above]**.

However, Moribe in view of Shigemori does not teach:

- wherein type information is encoded as Permanent Information and control data.

Endoh teaches:

- wherein type information is recorded by mean of frequency modulated wobble **[col. 16, line 44]**, and information is encoded as Permanent Information and control data **[col.16, line 40]**.

It would have been obvious at the time of invention to one with ordinary skill in the art to combine the Blu-Ray disc wherein type information is recorded by means of frequency modulated wobble and information is encoded as Permanent Information and control data taught by Endoh with the data carrier taught by Moribe in view of Shigemori because the several types of data can be coded as Permanent Information and Control data, such as Table of Contents data **[Endoh, col. 3, line 51 - 52]**

***Response to Arguments***

6. Applicant's arguments, see pg. 7, filed 8/28/2008, with respect to the objection of the title of the invention have been fully considered and are persuasive. The objection of the title has been withdrawn.

7. Furthermore, Applicant's arguments, see pg. 8, filed 8/28/2008, with respect to the objection of claims 6 – 7 due to inconsistencies in claim preamble have been fully considered and are persuasive. The objection of the claims due to inconsistencies in the preamble has been withdrawn.

8. Additionally, see pg. 8, filed 8/28/2008, with respect to the 112 2<sup>nd</sup> rejection of claim 7 have been fully considered and are persuasive. The 112 2<sup>nd</sup> rejection of claim 7 has been withdrawn.

9. In regards to the prior art rejections Applicant's arguments filed 8/28/2008 have been fully considered but they are not persuasive. Applicant argues that "Defining a first area as read-only area by type information recorded on the data carrier in an unerasable way is nowhere disclosed or suggested in Moribe. Rather, Moribe merely discloses a medium identification code recorded by using a nonvolatile mark". However, Moribe teaches "a medium identification code is recorded as a nonvolatile mark formed by irreversibly changing a magnetization characteristic of the recording medium" (col.5, lines 29-30) and that "the medium identification code recorded as such nonvolatile mark cannot be erased through erasing operation" (col.5, lines 32-34). Moribe therefore teaches a first area S1 being defined as read-only area (can not be erased) by type

information (nonvolatile mark) recorded on the data carrier (fig.9, S1) in an unerasable way (recorded such that the nonvolatile mark can not be erased).

Applicant further argues that "The Moribe medium identification code has nothing to do with defining any portion of the disk as a read-only area". However, Moribe teaches that medium identification code recorded by unerasable nonvolatile mark in first area S1. Thus the unerasable nonvolatile mark itself defines the area S1 of (a portion of) the disk (figure 9) as read-only area.

Although Moribe does not teach a data carrier as disclosed, the data carrier taught by Moribe does read on applicant's claimed data carrier.

### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW J. SASINOWSKI whose telephone number is (571)270-5883. The examiner can normally be reached on Monday to Friday, 7:30 to 5:00, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Robinson can be reached on (571)272-2319. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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